

Policy: 114 - Federal and State False Claims Act

Division: System wide

Original Date: 12/26/06

Department: Organizational Compliance and Ethics

Review/Revision Date:

Category: Compliance

Approved By: Gregory Burkhart

Location(s):

Owner: Gregory Burkhart

Previous Review/Revision Dates:

Purpose:

Federal law requires that health care organizations that receive annual Medicaid payments of at least \$5 million establish a written policy for its employees, contractors and agents.

Policy:

To provide detailed information to all employees, contractors and agents about federal and state False Claims Acts and Sentara's policies and procedures to detect and prevent fraud waste and abuse. The information in this policy should be included in any employee manual and distributed to all contractors and agents as required by the Deficit reduction Act of 2005.

Procedures:

Federal False Claims Act

One of the primary uses of the Federal False Claims Act is to combat fraud and abuse in government health care programs. The Act accomplishes this by making it possible for the government to bring civil actions to recover damages and penalties when healthcare providers submit false claims. Penalties can include up to three times actual damages and an additional \$5,500 to \$110,000 per false claim.

The False Claims Act prohibits, among other things:

- Knowingly presenting or causing to be presented to the federal government a false or fraudulent claim for payment or approval;
- Knowingly making or using, or causing to be made or used, a false record or statement in order to have a false or fraudulent claim paid or approved by the government;
- Conspiring to defraud the government by getting a false or fraudulent claim allowed or paid; and
- Knowingly making or using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

"Knowingly" means that a person, with respect to information: 1) has actual knowledge of the information; 2) acts in deliberate ignorance of the truth or falsity of the information; or 3) acts in reckless disregard of the truth or falsity of the information.

Protection for "Whistleblowers"

The False Claims Act also contains a qui tam (or whistleblower) provision. This provision allows a private person with knowledge of a false claim to bring a civil action on behalf of the United States Government. The purpose of bringing the qui tam suit is to recover the funds paid by the Government as a result of the false claims. Sometimes the Government decides to join the qui tam suit. If the suit is successful, the whistleblower that initially brought the suit may be awarded a percentage of the funds recovered. Also in the False Claims Act is a provision that protects a whistleblower from retaliation by his employer. This applies to any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in his employment as a result of the employee's lawful acts in furtherance of a false claims action.

Sentara also has policies in place that protect employees from retaliation and retribution when they report suspected wrongdoing through the Sentara Integrity Employee Hotline (#####).

State False Claims Act

Virginia has a False Claims Act that mirrors the federal False Claims Act. The actions that trigger civil penalties under the Virginia False Claims Act are identical to those of the federal Act. The Virginia Act also includes the whistleblower provision preventing employers from retaliating against employees who report their employer's false claims.

Reporting Concerns

Sentara takes issues regarding false claims and fraud and abuse seriously. Sentara expects all employees, management and contractors or agents to be aware of the laws regarding fraud and abuse and false claims and to be able to identify, report and resolve any issues immediately. Concerns should be reported to an immediate supervisor when appropriate. If the supervisor is not deemed to be the appropriate contact or if the supervisor fails to respond quickly and appropriately to the concern, then the individual with the concern should be encouraged to discuss the situation with a higher level supervisor or Compliance & Organizational Ethics department personnel. Sentara also has available to employees an integrity hotline (1-800-981-6667) that is available 24 hours and is confidential. Calls to the hotline are then reported to the Compliance & Organizational Ethics department for investigation and resolution.